

NO. 22-2288

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

APPLE INC.,
Appellant

v.

COREPHOTONICS, LTD.,
Appellee

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT'S OPENING BRIEF**

**Appeal from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in No. IPR2020-00489**

HAYNES AND BOONE, LLP

Debra J. McComas	David W. O'Brien	Angela M. Oliver
Andrew S. Ehmke	Hong Shi	800 17th Street, NW
2323 Victory Avenue	600 Congress Avenue	Suite 500
Suite 700	Suite 1300	Washington, D.C. 20006
Dallas, Texas 75219	Austin, Texas 78701	Phone: (202) 654-4552
Phone: (214) 651-5375	Phone: (512) 867-8457	Fax: (202) 654-4252
Fax: (214) 200-0525	Fax: (512) 867-8613	

Attorneys for Appellant Apple Inc.

TO THE HONORABLE COURT:

Under Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellant Apple Inc. (“Appellant”) files this unopposed motion for extension of time and respectfully requests a 60-day extension, until and including March 10, 2023, to file Appellant’s opening brief.

A. Current Deadline

The certified list was served on November 8, 2022, making Appellant’s opening brief due on January 9, 2023. This is Appellant’s first request for an extension of time to file the opening brief and Appellant’s first request for an extension in this appeal.

B. Reason for Extension

As outlined in more detail in the accompanying Declaration of Debra J. McComas, Appellant requests this extension due to numerous conflicting deadlines in other matters, including other matters pending before this Court, as well as holidays and pre-planned personal vacation travel occurring during the relevant briefing period.

C. No Opposition

Appellee Corephotonics, Ltd. is not opposed to the requested extension, which is sought so that justice may be done in the disposition of this appeal and is not sought for purposes of delay.

PRAYER

For these reasons, Appellant respectfully requests that this unopposed motion for extension of time be granted and that the time for filing of the Appellant's opening brief be extended from the current deadline of January 9, 2023, until and including March 10, 2023. Appellant further requests all such other relief to which it may be justly entitled.

Dated: December 29, 2022

Respectfully Submitted,

HAYNES AND BOONE, LLP

/s/ Debra J. McComas

Debra J. McComas
Andrew S. Ehmke
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Phone: (214) 651-5375
Fax: (214) 200-0525
Debbie.McComas@haynesboone.com
Andy.Ehmke@haynesboone.com

David W. O'Brien
Hong Shi
600 Congress Avenue, Suite 1300
Austin, Texas 78701
Phone: (512) 867-8457
Fax: (512) 867-8613
David.Obrien@haynesboone.com
Hong.Shi@haynesboone.com

Angela M. Oliver
800 17th Street NW, Suite 500
Washington, D.C. 20006

Phone: (202) 654-4552
Fax: (202) 654-4252
Angela.Oliver@haynesboone.com

Attorneys for Appellant Apple Inc.

CERTIFICATE OF INTEREST

Case Number	22-2288
Short Case Caption	Apple Inc. v. Corephotonics, Ltd.
Filing Party/Entity	Appellant / Apple Inc.

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: December 29, 2022

Signature: /s/ Debra J. McComas

Name: Debra J. McComas

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.
<u> </u> None/Not Applicable	<u>X</u> None/Not Applicable	<u>X</u> None/Not Applicable
Apple Inc.		

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

None/Not Applicable

Additional pages attached

Jordan Maucotel (Haynes and Boone, LLP)	Stephanie Sivinski (Haynes and Boone, LLP)	Michael S. Parsons (Haynes and Boone, LLP)

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

None/Not Applicable

Additional pages attached

Corephotonics, Ltd. v. Apple Inc., 5:19-cv-04809 (N.D. Cal.)		

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable

Additional pages attached

CERTIFICATE OF CONFERENCE

I hereby certify that on December 29, 2022, I conferred with counsel for the Appellee, who stated that Appellee is not opposed to the relief sought herein.

/s/ Angela M. Oliver (with permission)
Angela M. Oliver

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because:

- this motion contains **236** words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f) and Fed. Cir. R. 32(b)(2).

2. This motion complies with the typeface and type style requirements of Fed. R. App. P. 27(d)(1)(E) because:

- this motion has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

/s/ Debra J. McComas
Debra J. McComas

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APPLE INC.,
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v.

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**Appeal from the United States Patent and Trademark Office,
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**DECLARATION OF DEBRA J. MCCOMAS IN SUPPORT OF
UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE APPELLANT'S OPENING BRIEF**

I, Debra J. McComas, counsel for Appellant Apple Inc. (“Apple”), declare as follows:

1. I am an attorney admitted to the bar of this Court. I am a partner at Haynes and Boone LLP.
2. I, along with Andrew S. Ehmke, David W. O’Brien, Hong Shi, and Angela M. Oliver, am counsel of record for Appellant Apple.
3. I submit this declaration pursuant to Federal Circuit Rule 26(b)(3) in support of Apple’s Unopposed Motion for Extension of Time to File Appellant’s

Opening Brief. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

4. Good cause exists for a sixty-day extension of time to file Apple's opening brief in this appeal.

5. Counsel of record for Apple have been working diligently toward completion of Apple's brief in this appeal, which is currently due on January 9, 2023. Despite these efforts, professional commitments on other matters have rendered it infeasible to provide the Court with the quality product to which it is entitled within the original time frame.

6. In addition to various district court deadlines arising during the briefing period, major holidays and pre-planned personal vacations during December and January, counsel of record have had and will have the following competing professional commitments:

- Appellant's response and reply brief in *Apple Inc. v. Corephotonics, Ltd.*, No. 22-1325 (Fed. Cir.) filed on December 16, 2022;
- Oral argument in *Ideahub, Inc. v. Unified Patents, LLC*, No. 22-1160 (Fed. Cir.) on February 6, 2023;
- Oral argument in *Vilox Technologies, LLC v. Unified Patents, LLC*, No. 19-2057 (Fed. Cir.) on February 10, 2023;
- Appellee's brief in *K.Mizra LLC v. Cisco Systems, Inc.*, No. 22-2201 (Fed. Cir.), due February 21, 2023;

- Appellee's brief in *Voice Tech Corp. v. Unified Patents, LLC*, No. 22-2163 (Fed. Cir.), due February 24, 2023.

7. Counsel for Apple have conferred with counsel for the Appellee, who does not oppose this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 29, 2022 in Dallas, Texas.

/s/ Debra J. McComas
Debra J. McComas